

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 06-20364-06-BC
Honorable Thomas L. Ludington

GEORGE E. TRICE,

Defendant.

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ORDER DENYING REQUEST FOR MODIFICATION OF SENTENCE

On March 17, 2010, Defendant George E. Trice filed a letter request [Dkt. # 233] for a modification of his sentence, emphasizing the disparity in the U.S. Sentencing Guidelines at the time he was sentenced for criminal acts involving similar amounts of cocaine base and cocaine powder. *See generally Kimbrough v. United States*, 552 U.S. 85 (2007) (discussing the disparity between sentences based on similar amounts of cocaine base and cocaine powder and stating that it is at odds with the factors set forth in 18 U.S.C. § 3553(a)). The Court has already considered and denied an identical request for a reduction in sentence filed by Defendant in October 2009 [Dkt. # 229, 232]. The request was denied, even though Defendant's guideline range was lower under the revised guidelines, because both statutes under which Defendant was convicted carry statutory minimum sentences that are higher than the revised guideline range. The conspiracy to distribute more than fifty grams of cocaine base charge carries a statutory minimum sentence of ten years in prison, 21 U.S.C. §§ 846 & 841(b)(1)(A)(iii), and the possession of a firearm in furtherance of a drug trafficking crime charge carries a statutory minimum sentence of five years to be served consecutive to the drug trafficking sentence, 18 U.S.C. § 924(c)(1)(A)(I). Accordingly, Defendant's original sentence of 15 years in prison was already the statutory minimum, and cannot be further reduced.

Defendant's letter request does not raise new issues, present new facts, or otherwise raise a "palpable defect" in the Court's earlier determination. E.D. Mich. L.R. 7.1(h)(3). As a result, it will be denied.

Accordingly, it is **ORDERED** that Defendant's request for modification of sentence is **DENIED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: March 23, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 23, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS